



July 2, 1999

Lieutenant Terry Lichtie
Amarillo Police Department
200 E. 3rd
Amarillo, Texas 79101-1514

OR99-1842

Dear Lieutenant Lichtie:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 125783.

The Amarillo Police Department (the "department") received a request for all investigation reports and jail records naming a particular individual as a suspect, witness, or complainant. You claim that certain information is excepted from public disclosure by the sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted documents.

First, you argue that some of the requested information is protected by common-law privacy. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." The submitted information includes information protected by common-law privacy which is encompassed in section 552.101. For information to be protected from public disclosure by the common-law right of privacy under section 552.101, the information must meet the criteria set out in *Industrial Foundation v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court stated that information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts the release of which would be highly objectionable to a reasonable person and (2) the information is not of legitimate concern to the public. 540 S.W.2d at 685. The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. In addition, in *United States Department of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989), the U.S. Supreme Court concluded that where an individual's CHRI is compiled or summarized by a governmental entity, the information takes on a character that implicates individual's right of privacy in a manner that the same individual records in an uncompiled state do not. Thus, to the extent that the

department has records in which the named individual is a possible suspect, we conclude that the department must withhold this information under section 552.101 of the Government Code. *See id.*; *see also* Gov't Code § 411.106(b). We have marked the information that you must withhold as private information under section 552.101.


You argue that some offense reports are excepted from public disclosure by section 552.108(a)(2). Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Based on the information you provided, we understand you to assert that the requested information pertains to cases that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable to offense report numbers 88-94434, 91-13003, and 92-28424.

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App. --Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information, you may withhold offense report numbers 88-94434, 91-13003, and 92-28424 from disclosure based on section 552.108(a)(2). We note that you have the discretion to release all or part of the remaining information in offense report numbers 88-94434, 91-13003, and 92-28424 that is not otherwise confidential by law. Gov't Code § 552.007.

Lastly, you must withhold information under section 552.130 of the Government Code. Section 552.130 excepts information relating to a driver's license or motor vehicle title or registration issued by an agency of this state. We have marked the license plate number in offense report number 93-112878 that you must withhold under section 552.130.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Yen-Ha Le".

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 125783

Encl.: Marked documents

cc: Ms. Mary Mitchell
Legal Assistant
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(w/o enclosures)